

Corrections Quarterly Summary

**Volume 7, No. 4
Fourth Quarter 1988**

Contents

Capacity Changes	1
Litigation	2
Legislation	6
Quarterly Survey	7
Commissioner Changes	11
Additional Highlights	11
AIDS Information	12
Recommended Reading	13

The Corrections *Quarterly Summary* is prepared by staff of L.I.S., Inc., for the U.S. Department of Justice, National Institute of Corrections. To submit questions or comments, please write to the NIC Information Center, 1790 30th Street, Suite 130, Boulder, Colorado, 80301, or call (303) 939-8877.

QUARTERLY SURVEY QUESTIONS

The survey this quarter addressed the issue of inmates' possession of pornographic materials. More specifically, information was requested on:

- 1) a comparison of agencies' standards for defining pornography with state lewdness or obscenity statutes;
- 2) the process for screening incoming mail for pornographic material; and
- 3) the types of these materials inmates are permitted to have in their cells.

Definitions

Table 1 indicates, in general, how agency pornography definitions compare to state statutes. Respondents from 20 agencies indicated that they use the same pornography definitions and standards as contained in their states' or other jurisdictions' statutes. Fifteen corrections agencies apply more restrictive definitions than do their state statutes. One **state agency, the Arkansas Department of Corrections**, uses less restrictive standards.

Some survey respondents provided definitions of these standards, which range widely from language such as "routinely available over the counter" to that similar to the U.S. Supreme Court's wording, "if the average person, applying contemporary standards, would find that the work as a whole appeals to the prurient interest and if it depends on a patently offensive way of sexual conduct and if the work taken as a whole lacks serious literary, aesthetic, political, or scientific value." Specific information provided in response to this portion of the survey included the following:

- **Alabama, Arizona, Tennessee, and Saipan** respondents indicated that inmates are not allowed to possess any "adult materials" at all.

- **Georgia's** policy excludes pornographic material on the basis of its state sodomy law; any displays of potentially homosexual activities as well as those simulating sexual intercourse are prohibited.
- Respondents from **Minnesota, New York, Nevada, Oregon, and Utah** specifically noted the exclusion of child pornography-although **Nevada** allows inmates to have both "hard core" and "soft core" pornography in their cells.
- **Nebraska and New Hampshire** prohibit all nude photos.
- **Vermont** does not screen for pornography. Staff open mail in front of the inmate and empty its contents, but they are looking for drugs or weapons, not pornography.
- **Kentucky, Rhode Island, South Dakota, Texas and Utah** prohibit materials with graphic depictions of homosexuality. **Oregon**, which screens to exclude graphic or violent sexual depictions of bestiality, sadomasochism, and children, specifically does **not** exclude materials on the basis of homosexuality.

Several states noted that they prohibit all materials depicting specific conduct, such as bestiality, violence, sadism, or masochism. Others exclude depictions of penetration.

Screening Process

Most agencies indicated that screening for pornography is part of the regular mail screening process. Approximately three-quarters of the agencies routinely open all mail except privileged communications. Materials that clearly do not fit within agency guidelines are returned to the sender or destroyed; inmates are notified of the decision.

Disputed materials are reviewed, either by the warden or by a special review board:

- Ten agencies (**Arizona, Illinois, Iowa, New Mexico, New York, Pennsylvania, South Dakota, Texas, Virginia, and Guam**) have such boards; in **South Dakota** and **Guam** they are designated as “censorship boards.” A further appeals process is usually available to inmates.
- **Texas** institutions post a regularly-updated list of rejected publications in dayrooms and other locations.
- Two states, **Florida** and **Iowa**, screen incoming magazines against lists of approved publications.
- In **Iowa**, materials not on the list are sent to the Publications Review Committee, which may approve or deny them. The basis for the committee’s decision is whether the publication “presents a danger to the security or order of the institution or is detrimental to the rehabilitation of inmates.”
- **Illinois** has both “approved” and “disapproved” publications lists against which incoming materials are screened.

- Kentucky, on the other hand, specifies that the staff person(s) designated to approve or disapprove publications may **not** establish a list of excluded publications but must review each individual issue received.

Materials Allowed in Cells

Table 2 shows the types of “adult materials” permitted in inmates’ cells. Although no definitions were provided for “hard core” or “soft core,” there was general agreement that publications ordinarily available over the counter to the general public, such as *Playboy*, *Penthouse*, *Hustler*, etc., would contain “soft core” pornography. “Hard core” materials are considered to be those showing penetration or other graphic depictions of certain kinds of sexual activity.

- Respondents from **California, Massachusetts, South Dakota** and **Washington** indicted that although inmates can have soft core magazines in their cells, they cannot display pm-ups.
- **Massachusetts** is currently involved in a suit by an inmate over this issue.

Table 1: Agency Pornography Definitions Compared to State Obscenity Statues

	Less Restrictive	Same	More Restrictive	Don't Know	Not Applicable
Alabama					X
Alaska			X		
Arizona		X			
Arkansas	X				
California			X		
Delaware			X		
Florida		X			
Georgia		X			
Hawaii		X			
Idaho		X			
Illinois		X			
Indiana		X			
Iowa			X		
Kansas		X			
Kentucky			X		
Louisiana			X		
Maine		X			
Massachusetts					X
Maryland		X			
Michigan				X	
Minnesota					x
Mississippi					X
Missouri			X		
Montana		X			
Nebraska			X		
Nevada		X			
New Hampshire			X		
New Jersey				X	
New Mexico		X			
New York		X			
North Carolina		X			
Oklahoma				X	
Oregon			X		
Pennsylvania			X		
Rhode Island					X
South Dakota		X			
Tennessee			X		
Texas				X	
Utah				X	
Vermont		X			
Virginia		X			
Washington			X		
West Virginia				X	
Wisconsin				X	
Wyoming		X			
Guam			X		
Saipan			X		
Canada		X			

Table 2: Types of Publications Permitted in Cells

	Soft Core	Hard Core	Neither	Not Applicable
Alabama			X	
Alaska	X			
Arizona			X	
Arkansas	X			
California	X			
Delaware				X
Florida				X
Georgia	X			
Hawaii	X			
Idaho	X			
Illinois	X			
Indiana	X			
Iowa			X	
Kansas	X			
Kentucky	X			
Louisiana	X			
Massachusetts	X			
Maine	X			
Maryland	X			
Michigan	X			
Minnesota				X
Mississippi	X			
Missouri	X			
Montana	X			
Nebraska	X			
Nevada	X	X		
New Hampshire	X			
New Jersey			X	
New Mexico	X			
New York	X			
North Carolina			X	
Oklahoma	X			
Oregon	X			
Pennsylvania	X			
Rhode Island			X	
South Dakota	X	X		
Tennessee			X	
Texas	X			
Utah		X		
Vermont	X	X		
Virginia				X
Washington	X			
West Virginia	X			
Wisconsin	X			
Wyoming	X			
Guam	X			
Saipan			X	
Canada	X			